

ESTTA Tracking number: **ESTTA445979**

Filing date: **12/13/2011**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

### Opposer Information

Name	Atari Interactive, Inc.
Granted to Date of previous extension	12/14/2011
Address	417 Fifth Avenue New York, NY 10016 UNITED STATES
Attorney information	Susan Progoff Dorsey & Whitney LLP 51 West 52nd Street New York, NY 10019-6119 UNITED STATES ny.trademark@dorsey.com Phone:212.415.9200

### Applicant Information

Application No	85268906	Publication date	08/16/2011
Opposition Filing Date	12/13/2011	Opposition Period Ends	12/14/2011
Applicant	Andrew N. Greenberg 1846 Hebron Hills Dr Tucker, GA 30084 UNITED STATES		

### Goods/Services Affected by Opposition

Class 009. All goods and services in the class are opposed, namely: Computer game software
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### Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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### Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	4037222	Application Date	07/19/2010
Registration Date	10/11/2011	Foreign Priority Date	NONE
Word Mark	HAUNTED HOUSE		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 009. First use: First Use: 2003/11/11 First Use In Commerce: 2003/11/11 Downloadable electronic games via the internet and wireless devices; electronic, video and multimedia game software for use on personal computers and for use on electronic game playing machines; recorded computer software featuring video games; game software for computers; and prepaid downloadable video game and video game software

Attachments	85087894#TMSN.jpeg ( 1 page )( bytes ) Opposition.pdf ( 4 pages )(378271 bytes )
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### Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Susan Progoff/
Name	Susan Progoff
Date	12/13/2011

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In Re: Application Serial No. 85/268,906  
Filed: March 16, 2011  
Mark: HAUNTED HOUSE TYCOON  
Applicant: Andrew N. Greenberg  
Published In The Official Gazette on August 16, 2011  
Extension of Time to Oppose Granted Until: December 14, 2011

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ATARI INTERACTIVE, INC.,	:	
	:	
Opposer,	:	OPPOSITION NO.
	:	
v.	:	
	:	
ANDREW N. GREENBERG	:	
	:	
Applicant.	:	
-----X	:	

**NOTICE OF OPPOSITION**

1. Opposer, Atari Interactive, Inc., (“Atari”) is a Delaware corporation whose address is 417 Fifth Avenue, New York, NY 10016.

2. Upon information and belief, applicant, Andrew N. Greenberg, (“Greenberg”) is a United States citizen whose address is 1846 Hebron Hills Drive, Tucker, Georgia 30084.

3. Since long prior to March 16, 2011, the filing date of Greenberg’s application to register HAUNTED HOUSE TYCOON, Atari has been and now is advertising, offering for sale, selling and distributing in the United States downloadable electronic games via

the internet and wireless devices; electronic, video and multimedia game software for use on personal computers and for use on electronic game playing machines; recorded computer software featuring video games; game software for computers; and prepaid downloadable video game and video game software, under the trademark HAUNTED HOUSE.

4. Because of the widespread and extensive use of Atari's mark HAUNTED HOUSE, the HAUNTED HOUSE trademark has become well-known among the public and the trade as a means by which Atari's products are known and by which their source or origin are identified.

5. Atari is the owner of a trademark registration in the United States Patent and Trademark Office for the mark HAUNTED HOUSE, Registration No. 4,037,222, issued October 11, 2011. Atari's registration is presently outstanding and validly subsisting.

6. Upon information and belief, on March 16, 2011, applicant filed intent-to-use application Serial No. 85/268,906 in the United States Patent and Trademark Office to register HAUNTED HOUSE TYCOON, as a trademark for "Computer game software."

7. Upon information and belief, applicant made no bona fide use of the mark HAUNTED HOUSE TYCOON in the ordinary course of trade prior to March 16, 2011, when application Serial No. 85/268,906 was filed.

8. The designation applicant seeks to register, namely HAUNTED HOUSE TYCOON, so resembles opposer's HAUNTED HOUSE as to be likely, when applied to applicant's goods, to cause confusion or mistake or to deceive persons by creating the erroneous impression that the applicant's goods offered under with applicant's mark, originate with or

come from opposer or from the same source as opposer's product, or that applicant's products are authorized by or are endorsed by or are sponsored by or are connected in some way with opposer of its HAUNTED HOUSE products.

9. Applicant's intended use of the trademark it seeks to register is without license, authorization or permission of opposer.

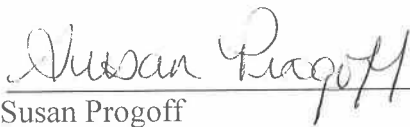
10. The granting of a trademark registration of HAUNTED HOUSE TYCOON to applicant would be contrary to Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d), and would violate or diminish the prior and superior rights of opposer in its HAUNTED HOUSE trademark.

11. Opposer will be damaged if application Serial No. 85/268,906 should be granted because applicant will obtain statutory rights in the mark HAUNTED HOUSE TYCOON in violate and degradation of the established prior rights of opposer.

WHEREFORE, Opposer prays that its opposition be sustain, that application Serial No. 85/268,906 be rejected, and that registration of HAUNTED HOUSE TYCOON as a trademark to applicant be refused and denied.

Dated: December 13, 2011

DORSEY & WHITNEY LLP

By:   
Susan Prohoff  
Fara S. Sunderji  
51 West 52<sup>nd</sup> Street  
New York, New York 10019  
(212) 415-9200

Attorneys for Opposer,  
Atari Interactive, Inc.

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

ATARI INTERACTIVE, INC.,

Opposer,

v.

ANDREW N. GREENBERG,

Applicant.

Opposition No.

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing **OPPOSER'S NOTICE OF OPPOSITION** is being served upon the Applicant by mailing a true copy thereof by First Class mail, postage prepaid to:

Andrew N. Greenberg  
1846 Hebron Hills Drive  
Tucker, Georgia 30084

on the 13th day of December, 2011.

  
Thomas E. Kearney